

Michael R. McDonald, Esq.  
Jeffrey A. Palumbo, Esq.

**GIBBONS P.C.**

One Gateway Center  
Newark, New Jersey 07102  
(973) 596-4500

*Attorneys for Defendants  
Computer Telephony Innovations, Inc.,  
VoxTeleSys LLC, Patrick Burke, and Bruce Burke*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

RICHARD M. ZELMA and NICOLE ZELMA

Plaintiffs,

v.

PATRICK BURKE, individually; BRUCE  
BURKE, individually, PATRICK BURKE, as  
CEO of Computer Telephony Innovations,  
Inc.; BRUCE BURKE, as Chairman and  
Senior Officer of Computer Telephony  
Innovations, Inc.; and COMPUTER  
TELEPHONY INNOVATIONS, INC. d/b/a/  
VOXTELESYS.COM

Defendants.

Civil Action No. \_\_\_\_\_

*Document electronically filed*

**NOTICE OF REMOVAL**

[Previously pending in the Superior Court of  
New Jersey, Bergen County, Law Division,  
BER-L-2795-16]

**TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**PLEASE TAKE NOTICE THAT** Defendants, Computer Telephony Innovations, Inc.,  
VoxTeleSys LLC (improperly pled as “Computer Telephony Innovations, Inc. d/b/a/  
VoxTeleSys.com”), Patrick Burke, and Bruce Burke (“Defendants”), by and through their  
counsel, Gibbons P.C., respectfully request that this action be removed from the Superior Court  
of New Jersey, Law Division, Bergen County to the United States District Court for the District

of New Jersey under 28 U.S.C. §1441(a), on the grounds of federal question jurisdiction pursuant to 28 U.S.C. §1331. In support of this Notice of Removal, Defendants alleges as follows:

### **BACKGROUND**

1. On or about April 1, 2016, Plaintiffs, Richard M. Zelma and Nicole Zelma (hereinafter “Plaintiffs”), pro se, filed a Complaint against Defendants in the Superior Court of New Jersey, Bergen County, Law Division, captioned: RICHARD M. ZELMA and NICOLE ZELMA v. PATRICK BURKE, individually; BRUCE BURKE, individually, PATRICK BURKE, as CEO of Computer Telephony Innovations, Inc.; BRUCE BURKE, as Chairman and Senior Officer of Computer Telephony Innovations, Inc.; and COMPUTER TELEPHONY INNOVATIONS, INC. d/b/a/ VOXTELESYS.COM, Docket No. BER-L-2795-16 (“State Action”). A copy of the Summons and Complaint is annexed hereto as Exhibit A.

2. On or about April 11, 2015, Defendants received the Complaint in the State Action. See Complaint, attached hereto as Exhibit A.<sup>1</sup>

### **JURISDICTIONAL REQUIREMENTS SATISFIED**

3. Plaintiffs contend that Defendants violated 47 U.S.C. §227(b) by allegedly unlawfully using an automated telephone dialing and announcement device (“ADAD”) to initiate unwanted telemarketing calls. See Exhibit A at Count One.

4. Plaintiffs further contend that Defendants violated 47 U.S.C. §227(c) by allegedly initiating unwanted telemarketing calls to telephone numbers allegedly listed on national and state do-not-call registries, soliciting Plaintiffs in violation of their privacy rights, and providing allegedly incorrect and false information. See Exhibit A at Count Two.

---

<sup>1</sup> Defendants do not waive the defense of insufficient service of process or lack of personal jurisdiction in removing this matter.

5. Plaintiffs further contend that Defendants knowingly or willfully violated 47 U.S.C. §227(c) by allegedly using an ADAD and initiating unwanted telemarketing calls using a prerecorded sales script. See Exhibit A at Count Three.

6. Plaintiffs further contend that Defendants are liable for their claims pursuant to 47 U.S.C. §202 and 47 U.S.C. §206. See Exhibit A at ¶¶22-30.

7. Defendants are entitled to seek the removal of this matter, pursuant to 28 U.S.C. §1446(a), as the State Action is a civil action of which the District Courts of the United States have original jurisdiction by virtue of federal question jurisdiction granted by 28 U.S.C. §1331. See Mims v. Arrow Fin. Servs., LLC, 132 S. Ct. 740, 753 (2012).

8. This Court also has supplemental jurisdiction, pursuant to 28 U.S.C. §1367, over any state and common law claims asserted in the Complaint by Plaintiffs as those claims are so related to the federal claims that they form part of the same case.

9. This matter is therefore properly removed to this Court, pursuant to 28 U.S.C. §1441(a), because the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States. Venue is proper in the Newark Vicinage, as the claims asserted by Plaintiffs were filed in the Superior Court of New Jersey, Law Division, Bergen County.

10. Accordingly, this matter should be removed to the United States District Court for the District of New Jersey by virtue of the provisions of 28 U.S.C. §1331 and 28 U.S.C. §1441(a).

11. Defendants submit this Notice of Removal without waiving any defenses to the claims asserted by Plaintiffs, and do not concede that Plaintiffs have asserted any claims against Defendants upon which relief may be granted.

**REMOVAL REQUIREMENTS SATISFIED**

12. As required by 28 U.S.C. §1446(b), this Notice of Removal is being filed within thirty (30) days after Defendants received a copy of the Complaint, see supra at ¶¶ 1-2 & n.1, that was filed by Plaintiffs in the Superior Court of New Jersey, Bergen County, Law Division.

13. Defendants have not filed a responsive pleading in the action commenced by Plaintiffs in the Superior Court of New Jersey, Bergen County, Law Division against Defendants and no other proceedings have transpired in that action.

14. This Notice of Removal is being filed in the District of New Jersey, the district court of the United States for the district and division within which the state court action is pending, as required by 28 U.S.C. §§1446(a) and 1441(a).

15. Promptly after filing this Notice of Removal with the District Court for the District of New Jersey, a copy of this Notice of Removal, along with the Notice of Filing of Notice of Removal, will be filed with the Clerk of the Superior Court of New Jersey, Bergen County, Law Division pursuant to 28 U.S.C. §1446(d). A copy of both documents will also be served upon Plaintiffs. A copy of the letter notifying the Clerk of the New Jersey Superior Court, Bergen County, Law Division, of removal from state court, is annexed hereto as Exhibit B.

16. Moreover, all Defendants consent to removal of this matter.

17. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. §1446(a).

**WHEREFORE**, Defendants respectfully request that this action be duly removed from the Superior Court of New Jersey, Bergen County, Law Division, to this Court, and that it proceed herein.

Dated: May 6, 2016

By: s/ Michael R. McDonald, Esq.  
Michael R. McDonald, Esq.  
Jeffrey A. Palumbo, Esq.  
**GIBBONS P.C.**  
One Gateway Center  
Newark, New Jersey 07102  
Phone: (973) 596-4500  
Facsimile: (973) 639-6295  
mmcdonald@gibbonslaw.com  
jpalumbo@gibbonslaw.com  
*Attorneys for Defendants*  
*Computer Telephony Innovations, Inc.,*  
*VoxTeleSys LLC, Patrick Burke, and*  
*Bruce Burke*